

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[OAR-2003-0083-1; FRL-]

**Air Quality Designations and Classifications for the 8-Hour
Ozone**

**National Ambient Air Quality Standards; Early Action Compact
Areas With Deferred Effective Dates**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is granting a deferral of the effective date, to September 30, 2005, of the nonattainment designation for Hamilton and Meigs Counties, Tennessee, and Catoosa County, Georgia, based on additional information submitted by this area. The basis for this action is an updated modeling analysis completed by this area that demonstrates attainment of the 8-hour ozone National Ambient Air Quality Standards (NAAQS) by December 31, 2007. In addition, in a letter dated May 27, 2004, from the Mayors of the City of Chattanooga and Hamilton County to EPA, the area has fully committed to adopt and implement additional local measures on a schedule consistent with requirements for Early Action Compact (EAC) areas. These measures are also included in the updated modeling analysis.

EFFECTIVE DATE: This final rule is effective on June 15, 2004.

ADDRESSES: The EPA has established dockets for this action under Docket ID No. OAR-2003-0083 (Designations) and OAR-2003-0090 (Early Action Compacts). All documents in the docket are listed in the EDOCKET index at <http://www.epa.gov/edocket>. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in EDOCKET or in hard copy at the Docket, EPA/DC, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m. Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Office of Air and Radiation Docket and Information Center is (202) 566-1742. In addition, we have placed a copy of the rule and a variety of materials regarding designations on EPA's designation web site at: <http://www.epa.gov/oar/oagps/glo/designations> and on the

Tribal web site at: <http://www.epa.gov/air/tribal>.

Materials relevant to EAC areas are on EPA's web site at:

http://www.epa.gov/ttn/naaqs/ozone/eac/w1040218_eac_resource_s.pdf. In addition, the public may inspect the rule and

technical support at the following locations:

Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S.

Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960.

FOR FURTHER INFORMATION CONTACT: Dick Schutt, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9033. Mr. Schutt can also be reached via electronic mail at schutt.dick@epa.gov.

SUPPLEMENTARY INFORMATION:

I. What Action is EPA Taking Today?

The EPA is reinstating the EAC and deferring the effective date of the nonattainment designation for Hamilton County, TN; Meigs County, TN; and Catoosa County, GA, as a result of additional measures being taken by Chattanooga to improve air quality in the area. The additional measures being implemented

in Hamilton County include a seasonal open burning ban and a vehicle inspection and maintenance program (I/M program). These measures have been included in the area's modeling demonstration and result in modeled attainment by December 2007.

II. What is the Background for this Action?

The EPA entered into EACs with 33 communities on December 31, 2002, including the Chattanooga, TN-GA area. This area successfully completed the December 31, 2002 and June 16, 2003 milestone requirements, and the June and December 2003 progress reports. By March 31, 2004, EAC areas submitted local plans, which are specific, quantified and permanent. These plans also included specific implementation dates for the local controls, as well as technical assessment of whether the area could attain the 8-hour ozone NAAQS by the December 31, 2007, milestone. On April 15, 2004, EPA designated areas nonattainment for the 8-hour ozone NAAQS. In that same action, EPA deferred the effective date of nonattainment designation for many areas that were participating in the EAC process. However, as stated in the April 15 action, we determined that Chattanooga, along with Knoxville and Memphis, did not pass the modeled attainment test and the predicted air quality improvement test. In addition, our review of meteorological influences for the three areas was inconclusive; and these areas did not provide additional measures not already modeled. In addition to the technical analysis, we reviewed the

strength of the control strategies each EAC area proposed in their March 31, 2004 plans. We determined that the control measures submitted by these three areas could have been strengthened, and the Agency expected more local measures. The EPA also determined that the States' technical assessments for each of these areas and their suite of measures were not acceptable. Therefore, in our April 15, 2004 action, these three areas in Tennessee, including Chattanooga, did not receive a deferral of the effective date of their nonattainment designation. Chattanooga was, instead, designated as nonattainment under Subpart 1 of the Clean Air Act (CAA), effective June 15, 2004.

The 8-hour ozone attainment demonstration for the Chattanooga EAC was, initially, independently developed by the States of Georgia and Tennessee using different modeling systems and inputs. Both demonstrations represent reasonable and plausible conditions. The Tennessee modeling in the March 31, 2004 submittal was reviewed as the primary modeling for the demonstration. This modeling was based on local or fine-grid scale (i.e., horizontal grid spacing of 4 kilometers (km)). The Georgia modeling was submitted for the March 31, 2004 EAC milestone as corroborative or supporting data for the Chattanooga demonstration. It was based on regional modeling using a horizontal grid-scale resolution of 12 km. The Tennessee

modeling predicted a 2007 future design value of 85.6 parts per billion (ppb) that does not indicate attainment, while the Georgia modeling did predict a 2007 future design value less than 85 ppb. Attainment is indicated when the future design value is less than 85 ppb. The supporting weight of evidence analysis from the Tennessee modeling (overall model predicted ozone improvement, meteorological influences, and attainment test sensitivities) that accompanied the attainment modeling also was inconclusive to support a decision that Chattanooga would more than likely attain the NAAQS by 2007. The EPA believed additional control measures would be needed. Additional details on the March 31, 2004, submittal and EPA's review are included in the April 30, 2004 Federal Register at 69 FR 23865-66, and on the EAC website at: <http://www.epa.gov/ttn/naaqs/ozone/eac/index.htm>.

On June 3, 2004, the States of Georgia and Tennessee collectively submitted revised modeling, which includes additional local control measures to support the first deferral of the effective date of designation for Hamilton County, TN; Meigs County, TN;, and Catoosa County, GA, which is a portion of the Chattanooga EAC area. The modeling is based on a revision to the March 31, 2004 Georgia EAC submittal for Chattanooga. The revised modeling uses a fine 4 km horizontal grid scale resolution over the Chattanooga EAC area. The modeling was developed in accordance with the EPA draft 8-hour modeling

guidance with an appropriate modeling system, grid configuration, inputs and acceptable model performance. The days modeled are representative of meteorological conditions that are conducive to exceedances of the 8-hr ozone NAAQS. The modeling attainment and screening tests were successfully applied and predict future design values (i.e., 81 ppb) at the Chattanooga monitors that are below the 8-hr NAAQS of 85 ppb. The control strategy for Chattanooga was strengthened with the addition of more controls (i.e., reductions from an On-Board Diagnostics vehicle I/M program for Hamilton County, Tennessee, and a seasonal open burning ban). The control strategy for Chattanooga is comparable to the controls for other EAC areas with similar design value concentrations. The EPA believes the technical information submitted is adequate to grant a deferral of the effective date of nonattainment designation. This does not constitute a decision of approval of the attainment demonstration which will be submitted in December 2004. The EPA will perform a more comprehensive review of the Georgia and Tennessee technical analyses before making a final decision on the attainment demonstration by September 30, 2005.

III. What Action is EPA Taking to Defer the Effective Date of Nonattainment Designations for Chattanooga?

The counties of Hamilton and Meigs, TN and Catoosa, GA submitted to EPA the following documentation that strengthens its

March 31, 2004 EAC milestone submittal and supports attainment of the 8-hour ozone NAAQS no later than December 2007: (1) technical support including revised modeling technical analysis; (2) a description of additional local measures (including I/M and a seasonal open burning ban); (3) a letter from the Mayor of Hamilton County and the Mayor of the City of Chattanooga, including legal authority to adopt these additional measures; and (4) a commitment to implement these measures by the 2005 ozone season. The Mayors have also committed to work with the State to submit the adopted measures to EPA as a SIP revision by December 31, 2004. Therefore, effective immediately, EPA will defer until September 30, 2005, the effective date of nonattainment designations for Hamilton and Meigs Counties, TN and Catoosa County, GA by modifying 40 CFR part 81.311 and 81.343.

IV. Final Action

The EPA is deferring the effective date to September 30, 2005, of the nonattainment designation for Hamilton and Meigs Counties, Tennessee and Catoosa County, Georgia, based on additional information submitted by this area. We are also amending 40 CFR part 81, subpart C, to reflect the modified effective dates for these three counties.

V. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is "significant" and, therefore, subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may: (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order. Pursuant to the terms of Executive Order 12866, it has been determined that this rule is not a "significant regulatory action" because none of the above factors applies. As such, this final rule was not formally submitted to OMB for review.

B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C.

3501 et seq. This rule changes the effective date of a nonattainment designation for portions of the Chattanooga MSA that was promulgated on April 15, 2004. The present final rule does not establish any new information collection burden apart from that required by law. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule

subject to notice and comment rulemaking requirements under the Administrative Procedures Act or any other statute unless the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions. For purposes of assessing the impacts of today's final rule on small entities, small entity is defined as: (1) A small business that is a small industrial entity as defined in the U.S. Small Business Administration (SBA) size standards. (See 13 CFR 121.); (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field. This rule defers the effective date of the nonattainment designation for areas that implement control measures and achieve emissions reductions earlier than otherwise required by the CAA in order to attain the 8-hour ozone NAAQS. The deferral of the effective date will not impose any requirements on small entities. States and local areas that have entered into compacts with EPA have the flexibility to decide which sources to regulate in their communities. After considering the economic impacts of today's final rule on small entities, I certify that this rule will not have a significant

economic impact on a substantial number of small entities.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and Tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and Tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any 1 year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including Tribal governments, it must have

developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements. Today's final action does not include a Federal mandate within the meaning of UMRA that may result in expenditures of \$100 million or more in any 1 year by either State, local, or Tribal governments in the aggregate or to the private sector, and therefore, is not subject to the requirements of sections 202 and 205 of the UMRA. It does not create any additional requirements beyond those of the 8-hour NAAQS for ozone (62 FR 38894; July 18, 1997), therefore, no UMRA analysis is needed. In this rule, EPA is deferring the effective date of nonattainment designation for three counties in the Chattanooga, TN area that have entered into a compact with us. The EPA believes that any new controls imposed as a result of this action will not cost in the aggregate \$100 million or more annually. Thus, this Federal action will not impose mandates that will require expenditures of \$100 million or more in the aggregate in any 1 year.

E. Executive Order 13132: Federalism

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." This final rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. The CAA establishes the scheme whereby States take the lead in developing plans to meet the NAAQS. This rule will not modify the relationship of the States and EPA for purposes of developing programs to implement the NAAQS. Thus, Executive Order 13132 does not apply to this rule. Although Executive Order 13132 does not apply to this rule, EPA discussed the designation process and compact program with representatives of State and local air pollution control agencies, and Tribal governments, as well as

the Clean Air Act Advisory Committee, which is also composed of State and local representatives. In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicited comment on the proposed rule for deferring the effective date of nonattainment designations from State and local officials.

F. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." This final rule does not have "Tribal implications" as specified in Executive Order 13175. This rule concerns the deferral of the effective date of the nonattainment designation for a portion of the Chattanooga area participating in the EAC process that has met all milestones. The CAA provides for States to develop plans to regulate emissions of air pollutants within their jurisdictions. The Tribal Authority Rule (TAR) gives Tribes the opportunity to develop and implement CAA programs such as programs to attain and maintain the 8-hour ozone NAAQS, but it leaves to the discretion of the Tribe whether to

develop these programs and which programs, or appropriate elements of a program, they will adopt. The Chattanooga area that is affected by this final rule was required to develop and submit local plans for adoption and implementation of the 8-hour ozone standard earlier than the CAA requires. These plans must be submitted to EPA as a SIP revision in December 2004. No EAC areas include Tribal land. This final rule does not have Tribal implications as defined by Executive Order 13175. It does not have a substantial direct effect on one or more Indian Tribes, since no Tribe has implemented a CAA program to attain the 8-hour ozone NAAQS at this time or has participated in a compact. Furthermore, this rule does not affect the relationship or distribution of power and responsibilities between the Federal government and Indian Tribes. The CAA and the TAR establish the relationship of the Federal government and Tribes in developing plans to attain the NAAQS, and this rule does nothing to modify that relationship. Because this rule does not have Tribal implications, Executive Order 13175 does not apply. Although Executive Order 13175 does not apply to this rule, prior to designations action promulgated on April 15, 2004, EPA did outreach to Tribal representatives regarding the designations and to inform them about the compact program and its impact on designations. The EPA supports a national "Tribal Designations and Implementation Work Group" which provides an open forum for

all Tribes to voice concerns to EPA about the designation and implementation process for the NAAQS, including the 8-hour ozone standard. These discussions informed EPA about key Tribal concerns regarding designations as the rule was under development.

G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

Executive Order 13045: "Protection of Children From Environmental Health and Safety Risks" (62 FR 19885, April 23, 1997) applies to any rule that (1) is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. The final rule is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because the Agency does not have reason to believe the environmental health risks or safety risks addressed by this rule present a disproportionate risk to children. Nonetheless, we have evaluated the environmental health or safety effects of the

8-hour ozone NAAQS on children. The results of this risk assessment are contained the National Ambient Air Quality Standards for Ozone, Final Rule (62 FR 38855-38896, July 18, 1997; specifically, 62 FR 38854, 62 FR 38860 and 62 FR 38865).

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This rule is not subject to Executive Order 13211, "Actions That Significantly Affect Energy Supply, Distribution, or Use," (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866. Information on the methodology and data regarding the assessment of potential energy impacts is found in Chapter 6 of U.S. EPA 2002, Cost, Emission Reduction, Energy, and Economic Impact Assessment of the Proposed Rule Establishing the Implementation Framework for the 8-Hour, 0.08 ppm Ozone National Ambient Air Quality Standard, prepared by the Innovative Strategies and Economics Group, Office of Air Quality Planning and Standards, Research Triangle Park, NC, April 24, 2003.

I. National Technology Transfer Advancement Act

Section 12(d) of the National Technology Transfer Advancement Act of 1995 (NTTAA), Public Law No. 104-113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards (VCS) in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise

impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by VCS bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable VCS. This action does not involve technical standards. Therefore, EPA did not consider the use of any VCS.

J. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This rule will be effective June 15, 2004.

K. Judicial Review

Section 307(b)(1) of the CAA indicates which Federal Courts

of Appeal have venue for petitions of review of final actions by EPA. This Section provides, in part, that petitions for review must be filed in the Court of Appeals for the District of Columbia Circuit (i) when the agency action consists of "nationally applicable regulations promulgated, or final actions taken, by the Administrator," or (ii) when such action is locally or regionally applicable, if "such action is based on a determination of nationwide scope or effect and if in taking such action the Administrator finds and publishes that such action is based on such a determination." The rule designating areas for the 8-hour ozone standard was "nationally applicable" within the meaning of section 307(b)(1) since it established designations for all areas of the United States for the 8-hour ozone NAAQS. Since this final action defers the effective date of three of the designations made in that nationwide rulemaking, any petitions for review must be filed in the Court of Appeals for the District of Columbia Circuit. At the core of the designations rulemaking is EPA's interpretation of the definition of nonattainment under section 107(d)(1) of the CAA. In determining which areas should be designated nonattainment (or conversely, should be designated unclassifiable/attainment), EPA used a set of 11 factors that it applied consistently across the United States. For the same reasons, the Administrator also determined that the final designations are of nationwide scope and effect for purposes of

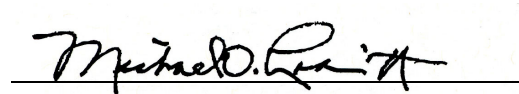
section 307(b)(1). This is particularly appropriate because in the report on the 1977 Amendments that revised section 307(b)(1) of the CAA, Congress noted that the Administrator's determination that an action is of "nationwide scope or effect" would be appropriate for any action that has "scope or effect beyond a single judicial circuit." H.R. Rep. No. 95-294 at 323, 324, reprinted in 1977 U.S.C.C.A.N. 1402-03. Here, the scope and effect of the designations rulemaking extend to numerous judicial circuits since the designations apply to all areas of the country. In these circumstances, section 307(b)(1) and its legislative history calls for the Administrator to find the rule to be of "nationwide scope or effect" and for venue to be in the D.C. Circuit. Thus, any petitions for review of this final action must be filed in the Court of Appeals for the District of Columbia Circuit within 60 days from the date final action is published in the Federal Register.

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, National parks,
Wilderness areas.

JUN 14 2004

Dated:

A handwritten signature in black ink, reading "Michael O. Leavitt", is written over a horizontal line. The signature is cursive and stylized.

Michael O. Leavitt
Administrator

For the reasons set forth in the preamble, 40 CFR part 81 is amended as follows:

PART 81-[AMENDED]

1. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

SUBPART C -[AMENDED]

2. In §81.311, the table entitled "Georgia-Ozone (8-Hour Standard)" is amended by revising the entries for "Catoosa County" to read as follows:

§81.311 Georgia.

* * * * *

Georgia--Ozone (8-Hour Standard)

Designated area	Designation ^a		Category/classification	
	Date ¹	Type	Date ¹	Type
Chattanooga, TN-GA:				
Catoosa County	²	Nonattainment	²	Subpart 1.
* * * * *				

^a Includes Indian Country located in each county or area, except as otherwise specified.

¹ This date is June 15, 2004, unless otherwise noted.

² Early Action Compact Area, effective date deferred until September 30, 2005.

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3. In §81.343, the table entitled "Tennessee-Ozone (8-Hour Standard)" is amended by revising the entries for "Hamilton County" and "Meigs County" to read as follows:

§81.343 Tennessee.

* * * * *

Tennessee--Ozone (8-Hour Standard)

Designated area	Designation ^a		Category/classification	
	Date ¹	Type	Date ¹	Type
Chattanooga, TN-GA:				
Hamilton County	²	Nonattainment	²	Subpart 1.
Meigs County	²	Nonattainment	²	Subpart 1.
* * * * *				

^a Includes Indian Country located in each county or area, except as otherwise specified.

¹ This date is June 15, 2004, unless otherwise noted.

² Early Action Compact Area, effective date deferred until September 30, 2005.

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